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Attorneys for Intervenor

U.S. COURTS
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REC'D _____
CAMERON S. BURKE
CLERK IDAHO

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO

RECUPEROS, LLC, an Idaho limited
liability company,)

Plaintiff,)

vs.)

AMERICAN FOOD STORES, LLC, a
California limited liability company,)

Defendant.)

AMERICAN FOOD STORES, LLC, a
California limited liability company,)

Counterclaimant,)

vs.)

RECUPEROS, LLC, an Idaho limited
liability company,)

Counterdefendant.)

Civil No. 04-229-S-BLW

MEMORANDUM IN SUPPORT
OF MOTION TO INTERVENE

As reflected in the proposed complaint in intervention, intervenor Tej Pahwa, provided the money to defendant American Food Stores, Inc. ("AFS") to allow defendant AFS to make the initial

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payment under the Asset Purchase Agreement with plaintiff, Recuperos, LLC.

Pursuant to Rule 24 of the Fed.R.Civ.P. a person is entitled to intervene as a matter of right, "when the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties."

In the case at bench, plaintiff has filed a declaratory relief action seeking an adjudication that it is entitled to retain the deposit of \$306,155.15. See ¶ 1 of the prayer for relief in the verified complaint. On the other hand, defendant AFS is seeking to recover that same amount of money. The intervenor, as the provider of the funds, is entitled to the money in the event it is adjudicated that plaintiff must return the money.

Under these circumstances, intervenor Pahwa has clear interest in the deposit money and it is appropriate that he be allowed to file the herein complaint in intervention.

DATED this 17 day of August, 2004.

ELLIS, BROWN & SHEILS, CHARTERED


Allen B. Ellis

CERTIFICATE OF SERVICE

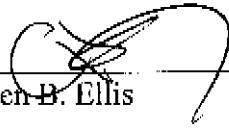
I HEREBY CERTIFY That on the 13th day of August, 2004, I caused to be served a true and correct copy of MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE by the method(s) indicated below, and addressed to the following:

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